DOCUMENT RESUME

ED 473 738 EC 309 420

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TITLE	Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities: Sample Treaty Provisions Drawn from Existing International Instruments. A Reference Tool.
INSTITUTION	National Council on Disability, Washington, DC.
PUB DATE	2002-07-29
NOTE	93p.
AVAILABLE FROM	National Council on Disability, 1331 F St., N.W., Suite 850, Washington, DC 20002. Tel: 202-272-2004; Tel: 202-272-2074 (TTY); Fax: 202-272-2022. For full text: http://www.ncd.gov.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	EDRS Price MF01/PC04 Plus Postage.
DESCRIPTORS	Advocacy; *Civil Rights; *Civil Rights Legislation; *Disabilities; *Disability Discrimination; Elementary Secondary Education; Global Approach; International Cooperation; *International Law; *Treaties

ABSTRACT

This document is designed to prepare advocates in the international disability community for productive participation in the development of international conventions on the human rights of people with disabilities. Knowledge of the standard categories of international law provisions will help participants address issues related to the structure of a draft treaty. Familiarity with how specific human rights principles have been addressed in other treaty contexts is necessary for articulating applications of such principles in the context of the rights of people with disabilities. This reference tool outlines five general categories of provisions in a human rights treaty and examines the specific types of provisions that are often contained in each particular category and how they have been approached in other texts. To achieve this, sample provisions have been chosen from existing human rights treaties and other relevant documents and included under the appropriate categories, which include: (1) introductory paragraphs; (2) substantive obligations; (3) institutions; (4) implementation techniques; and (5) implementing provisions. Each example is preceded by a short commentary that suggests how the particular provision might apply in the context of disability or how it is relevant to any convention. A list of 12 additional resources is provided. (CR)

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ED 473 738

A Reference Tool

Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities

Sample treaty provisions drawn from existing international instruments

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Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities

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Publication date: July 29, 2002

202-272-2004 Voice
202-272-2074 TTY
202-272-2022 Fax

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ACKNOWLEDGMENTS

The National Council on Disability (NCD) wishes to express its appreciation to Janet E. Lord, legal counsel and coordinator of Human Rights Programs at Landmine Survivors Network (LSN), who was commissioned by NCD to conduct research and to author this reference tool. NCD also recognizes Katherine N. Guernsey, international law consultant to LSN, for her essential assistance in the research and drafting of this document. Sue Schafer, consultant to LSN, assisted with the design and layout.

Joelle Balfe, consultant to NCD, provided substantive editing and drafting assistance throughout the process. Jeffrey Rosen, general counsel and policy director at NCD, provided support and guidance at all stages of the project.

Numerous individuals provided feedback on the manuscript drafts or parts of it: Zahabia Adamaly, Research Associate, Landmine Survivors Network; Rosangela Berman-Bieler, President, United States International Council on Disabilities; William K. Smith, MD, Center for International Rehabilitation; Steve Estey, Canadian Council on Disabilities; Arlene Kanter, Professor of Law, Syracuse University; and Gerard Quinn, Professor of Law, National University of Ireland, Galway.

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INTRODUCTION

Many advocates in the international disability community are familiar with the provisions of their domestic disability law, and understand the potential of these provisions to help shape the development of an international convention on the rights of people with disabilities. However, to prepare for productive participation in the development of an international treaty, it is essential to become familiar with some basic structural and substantive elements common to most international human rights treaties. Such knowledge will be useful both for those drafting treaty text and for those providing comments and suggestions to the drafters.

Knowledge of the standard categories of international law provisions will help participants address issues related to the structure of a draft treaty. Familiarity with how specific human rights principles have been addressed in other treaty contexts will be critical as drafters and commenter seek to articulate the substantive application of such principles in the context of the rights of people with disabilities. The purpose of this reference tool, therefore, is to outline the five general categories of provisions in a human rights treaty, and then to examine the specific types of provisions that are often contained in each particular category and how they have been approached in other texts.

To achieve this, sample provisions have been chosen from existing human rights treaties and other relevant documents and included under the appropriate categories, which include (i) introductory paragraphs; (ii) substantive obligations; (iii) institutions; (iv) implementation techniques; and (v) implementing provisions. Each example is preceded by a short commentary that suggests how the particular provision might apply in the context of disability (such as "Equality before the Law" and "Stereotyping of Groups") or simply how it is relevant to any convention (such as "Information Exchange", "Signature" and "Ratification").

Understanding how concepts have been handled in other treaties is the first step in successfully clarifying their application in the context of disability. However, in any convention development process, topics will arise that have never before been covered in an international treaty. For example, there are no provisions in existing treaties that clearly address the over-arching theme of "accessibility" as it is understood in the context of disability. This represents an opportunity for the disability community to break ground by elucidating an application of human rights principles that has yet to be addressed in international law. In acknowledgement of the fact that there will be brand new elements in the disability convention, this reference tool does not claim to be exhaustive. It simply cannot provide examples of potential elements that do not exist elsewhere in international law. Nonetheless, this tool can serve as one resource in the important process of examining the precedents to an international convention on the rights of people with disabilities. All resources should be consulted to find the best starting points for developing a comprehensive human rights framework for people with disabilities and to ensure that new provisions do not serve to undermine or confuse existing protections.

CATEGORY I. INTRODUCTORY PARAGRAPHS

A. Preamble

The preamble of a treaty is the introductory section that precedes the operative sections. In any international treaty, the preambular paragraphs provide useful historical context and the rationale for introducing a new instrument into the body of international law. The preamble of a treaty is not an operative part of a treaty, and is therefore not binding. However, the preamble serves the important purpose of establishing the object and purpose of a treaty and will often explain its relationship to prior developments in international law.

In the case of a treaty on the rights of people with disabilities, the preamble would likely reference existing binding and non-binding human rights documents relevant to the disability community and provide some statement regarding the need for further protections. In addition, the preamble might also link the concept of promoting the human rights of people with disabilities with other objectives, such as the pursuit of economic security and political stability.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], *entered into force* June 26, 1987

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows...

B. Definitions

Many human rights treaties precede the substantive obligations with a definitions section. Such a section may define how individual terms are to be interpreted or, as is often the case with human rights treaties targeting specific populations, the section may define the group(s) of people to whom the treaty applies. The inclusion of definitions clarifies how terms are to be used, aiding in the interpretation and implementation of the treaty as a whole. Given that "disability" has been defined in many different ways by many different sources, it is likely that a human rights treaty for people with disabilities would begin by defining what is meant by "disability" in the context of the treaty. It will be essential for people with disabilities and their representative organizations to be fully involved in the development of any provisions purporting to define "disability."

Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169), 72 ILO Official Bull. 59, *entered into force* Sept. 5, 1991

Article 1

1. This Convention applies to:

   (a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

   (b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

3. The use of the term "peoples" in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

.S. 277, Jan. 12, 1951

Article 2

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969

Article I

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

CATEGORY II. SUBSTANTIVE HUMAN RIGHTS OBLIGATIONS

This section provides an overview of the types of relevant substantive obligations that appear in certain international human rights or other treaties. Substantive obligations represent the core of any convention and define the content and application of the human rights, which States Parties to the treaty undertake to respect and protect. Each section below introduces a type of provision, with an explanation in basic terms of the role of that type of provision and its potential relevance for people with disabilities. This is followed by one or more examples from existing international treaties of the type of provision in question. While it is clear that a treaty on the human rights of people with disabilities may not contain the complete range of provisions included below, and may (and should) indeed contain innovative provisions not represented in existing treaties, the provisions included here should serve as a useful reference as deliberations progress regarding what must be included in a new convention and how best to articulate both new and existing concepts within it. Furthermore, an understanding of existing substantive obligations is essential in order to make certain that a new treaty does not undercut human rights law.

A. Non-discrimination

Nearly all of the major international human rights treaties contain non-discrimination clauses – provisions that prohibit discrimination against an individual in securing or respecting their exercise and enjoyment of universal human rights. This reflects the understanding that a high proportion of human rights violations against individuals occur on the basis that individuals differ in some respect from a given societal norm and are discriminated

against on that ground. Discrimination implies an act or conduct that denies to certain individuals equality of treatment with others because they belong to a particular group in society.

People with physical, mental and sensory disabilities frequently face discrimination based on their disability. In addition, membership in yet another group subject to discrimination often results in compounded discrimination. Thus, women living in poverty who also have a disability are among the most marginalized groups in society and frequently suffer multiple forms of discrimination. In many instances the media acts to further discrimination by drawing on stereotypes and portraying people with disabilities, or disability issues, in a negative light.

Apart from the general non-discrimination provisions appearing in the main international human rights treaties, three thematic treaties play an important role in addressing discrimination of particular groups and may be of particular interest for those participating in the development of an international convention on the rights of people with disabilities. These three thematic treaties are: (i) the Convention for the Elimination of All Forms of Discrimination against Women; (ii) the Convention for the Elimination of all Forms of Racial Discrimination; (iii) and the Convention on the Rights of the Child. In addition, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities addresses discrimination. It should be noted that as well as serving as a stand-alone provision in a human rights treaty for people with disabilities, a non-discrimination clause would also constitute a fundamental underlying principle for the other substantive obligations. Two sample non-discrimination clauses are provided below.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

American Convention on Human Rights, O.A.S Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992)

Article 1 Obligation to Respect Rights

1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

2. For the purposes of this Convention, "person" means every human being.

B. Measures to Eliminate Discrimination

Discrimination against individuals can take many forms, and come from many sources beyond State actors or officials acting under color of State authority. Some human rights treaties specify the steps that States Parties must take to ensure that discrimination is removed from all levels of society. These steps may include the obligation not to support (directly or indirectly) those who practice discrimination; the removal of legislation that is discriminatory on its face or in its application; and the implementation of legislation prohibiting the discriminatory practices of public and private actors. As indicated in other sections of this reference tool, such measures are often bolstered by provisions that seek to educate and raise public awareness of the human rights issues addressed in the treaty.

International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to en sure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything that tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

C. Action to Guarantee the Exercise and Enjoyment of Rights

Some treaties contain provisions outlining positive obligations (i.e. obligations where States Parties are called to take specific action, rather than merely refraining from engaging in a prohibited act). Because treaties cannot, for obvious reasons, include an exhaustive list of all actions a State must take, some treaties also include a clause asserting that States must undertake any and all actions necessary to give effect to the exercise and enjoyment of the human rights outlined in the treaty. A provision such as this can be useful in cases where, for example, to achieve a particular standard in a particular country, more extensive action is required than is specified in the positive obligation(s) in the treaty. Furthermore, such provisions underscore the level and scope of States' responsibility to actively pursue all standards set by the treaty. For the most part these types of provisions (including the ones below) tend to be quite general, and their effectiveness is somewhat limited.

In the implementation of an international human rights treaty for people with disabilities, such a provision could be used to ensure that States Parties understand their obligation to give effect to the treaty obligations in many spheres such as political, cultural, and economic areas of society.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 2

...

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

D. Stereotyping of Groups

Human rights treaties addressing specific forms of discrimination frequently include provisions which acknowledge the barriers faced in society by marginalized groups. Thus it is recognized that the process of stereotyping fuels both the development and application of discriminatory practices.

Indeed, stereotyping of people with disabilities – a pervasive practice throughout the world – frequently leads to inaccurate assumptions that form the basis of societal prejudices, stigma and discrimination. Because of the close nexus between the practices of stereotyping and discrimination, human rights treaties that seek to prevent discrimination will often include provisions aimed at preventing cultural stereotyping of the group or groups that are the focus of the treaty.

(See Annex (I) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

E. Participation

International law increasingly recognizes the right of participation in decision-making for those whose interests are affected. This right of participation is reflected in specific treaty provisions separately from traditional due process provisions that provide for participation in specific settings, such as trial settings.

People with disabilities have universally and persistently been denied the right to participate in decisions that affect their lives. Traditional perceptual models of disability have characterized people with disabilities as passive and dependent, which has encouraged the view that they have no role to play in decision-making even on issues that impact their lives. It is therefore crucial that people with disabilities take an active role in the development and implementation of any substantive human rights obligations that pertain to them, as well as the formation and functioning of any treaty monitoring bodies.

(See Annex (II) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169), 72 ILO Official Bull. 59, *entered into force* Sept. 5, 1991

Article 6

1. In applying the provisions of this Convention, Governments shall:

(a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;

(b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

(c) Establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly...

F. Right to Life

The right to life is the most fundamental of human rights protecting human existence and the integrity of the person and is a standard provision in the main international human rights documents.

The right to life under international human rights law has numerous links to disability. For example, the right to life is implicated in the context of the practice of euthanasia, which in many instances takes the form of withholding life-saving treatment to a newborn child with physical and/or mental disabilities. Many disability organizations have invoked the right to life challenge where children or adults with disabilities have died at the hands of medical practitioners or caregivers who have decided that their lives were 'not worth living'. In other cases, disability organizations have invoked the right to oppose physician-assisted suicide and related legislative initiatives. The right to life is therefore a core right relied upon frequently by disability organizations in their advocacy. In developing countries, the mortality rate of children with disabilities is frequently higher than non-disabled children because children with disabilities may not receive adequate care. These, and many other issues of relevance to people with disabilities, are not adequately addressed in existing international law.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

G. Torture and Other Ill-treatment

Major human rights treaties recognize the right to be free from torture and other cruel, inhuman or degrading treatment and punishment, a principle that is, in any event, a rule of international customary law. A specialized international human rights treaty, the Convention against Torture, provides more detailed standards for the effective prohibition against torture and other ill treatment, including guarantees of survivor assistance and legal redress for those who have experienced torture or other forms of cruel, inhuman or degrading treatment. Existing law does not adequately address common abuses against people with disabilities that amount to torture or other ill treatment.

People with disabilities are particularly vulnerable to torture and other forms of inhuman or degrading treatment and violations against them may go unnoticed given their frequent occurrence in institutionalized settings or other places which are isolated and shielded from scrutiny. Significantly, the UN Human Rights Committee, which monitors the implementation of the Covenant on Civil and Political Rights, has recognized that States have a clear responsibility for human rights violations that occur in private institutions for people with disabilities. In addition, the Committee has stated that disabled people who are not considered capable of giving valid consent are entitled to special protection. Article 7 of the Covenant on Civil and Political Rights prohibits medical or scientific experimentation in the absence of free consent, a matter of significance given that medical procedures and research on disabled persons frequently occur without free and informed consent. The Principles for the Protection of Persons with Mental Illness (MI Principles), adopted by the UN General Assembly in 1991, provide detailed guidance for the interpretation of Article 7, insofar as people with disabilities who are in institutions are concerned. It should be noted that many psychiatric survivor groups are strongly opposed to the MI Principles, on the basis that they reflect a regressive medical model perspective instead of rights-based principles. There is a push among these groups and others for a comprehensive review of all standards pertaining to psychiatric treatment. A treaty process provides just such an opportunity.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], *entered into force* June 26, 1987

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

H. Sexual Exploitation and Related Abuses

Sexual abuse, sexual exploitation, and domestic abuse are all forms of abuse to which people with disabilities can be particularly vulnerable, despite the fact that existing human rights provisions provide the right to be free from such abuse. Institutional and other settings frequently expose people with disabilities to abusive individuals, at the same time as leaving the abused individuals with no adequate means of redress to halt the abuse or bring abusers to justice. The likelihood of abuse is even greater for those who may not be in a position to fully recognize some subtler forms of emotional or psychological abuse due to the nature of their disability (e.g., developmental or intellectual disabilities).

(See Annex (III) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

I. Slavery, Servitude and Forced Labor

Freedom from slavery was among the first human rights to become a subject matter of international law and the prohibition against slavery and related practices is a standard provision in the general international human rights treaties. The provisions concerning slavery generally cover four different practices, namely, slavery, the slave trade, servitude and forced (or compulsory) labor. Contemporary forms of slavery and servitude have tended to focus on trafficking in women and children, as well as human organ trafficking, and international human rights law continues to develop in this sphere.

A UN Working Group on Contemporary Forms of Slavery addresses these issues and has recognized that disabled people are subjected to these practices. People with disabilities, and, in particular, people with intellectual disabilities, are at risk for a variety of exploitative labor practices, many in unregulated settings or in "sheltered workshops," some of which may rise to the level of prohibited practices under the slavery, servitude and forced labor rules of international human rights law. Organizations of women with disabilities have exposed the bondage-like treatment of women with mental disabilities who are married to men interested in having a dependent wife to control.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

American Convention on Human Rights, O.A.S. Treaty Series No. 36,1144 U.N.T.S. 123, *entered into force* July 18, 1978,reprinted in Basic Documents Pertaining to Human Rights in theInter-American System, OEA/Ser.L.V/II.82 doc. 6 rev. 1 at 25 (1992)

Article 6 Freedom from Slavery

1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women.

2. No one shall be required to perform forced or compulsory labor. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labor, the carrying out of such a sentence imposed by a competent court is prohibited. Forced labor shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.

3. For the purposes of this article, the following do not constitute forced or compulsory labor:

   a. work or service normally required of a person imprisoned in execution of a sentence or formal decision passed by the competent judicial authority. Such work or service shall be carried out under the supervision and control of public authorities, and any persons performing such work or service shall not be placed at the disposal of any private party, company, or juridical person;

   b. military service and, in countries in which conscientious objectors are recognized, national service that the law may provide for in lieu of military service;

   c. service exacted in time of danger or calamity that threatens the existence or the well-being of the community; or

   d. work or service that forms part of normal civic obligations.

J. Survivor Assistance

Some international law treaties recognize the rights of trauma survivors and survivors of various human rights abuses to certain protections. For example, the Rights of the Child Convention recognizes the rights of children to receive treatment if they have been subjected to maltreatment and to seek judicial intervention where necessary. The Mine Ban Treaty contains obligations for States Parties to provide assistance to victims by providing medical care and rehabilitation, as well as ensuring the social and economic reintegration of landmine survivors. While survivor rights in particular contexts represent a new and emerging area of international human rights law, some awareness of these provisions is important as they may inform the development of an international convention on the human rights of people with disabilities. Such obligations may become particularly relevant if an international convention addresses the rights of those who have, for example, suffered human rights abuses during institutional confinement.

Convention on the prohibition of the use, stockpiling, production and transfer of antipersonnel mines and on their destruction, adopted at Oslo, Norway on September 18, 1997,*entered into force* Mar. 1, 1999

Article 6(3) International cooperation and assistance

3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 19

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], *entered into force* June 26, 1987

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

K. Equality Before the Law

The three related concepts of equality before the law, equal protection of the law and protection from discrimination appear in the main international human rights treaties. Essentially, these three concepts provide that all people are entitled to equality of access to the courts, equality of application of the law, and freedom from discrimination under the law. For people with disabilities, full enjoyment of the right to equality before the law is frequently hampered by discrimination in application of the law, denial of competent counsel, as well as the failure to make necessary accommodations so that people with disabilities are able to access the courts and/or participate fully in judicial proceedings. Such accommodations may include the use of Braille documents, sign language interpreters, documents in plain language (for those with cognitive disabilities) or the guarantee of physical access to the courts.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force*Mar. 23, 1976

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992)

Article 24 Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

L. Due Process Protections

All people who are subjected to restrictions upon their liberty in the form of detention or arrest are entitled to certain minimum protections designed to ensure that the reasons for – and nature of – their detention or arrest are lawful. Such protections include timely access to a court to determine the lawfulness of their detention or arrest and compensation in the event that the detention or arrest is found to be unlawful. Due process protections are not only relevant to people with disabilities who find themselves subject to the criminal justice system, but they are particularly relevant to those people with disabilities who are subjected to involuntary institutional committals, which many consider in all cases, due process notwithstanding, to be an abuse of human rights.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

   (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

M. Rights of Peaceful Assembly and Association

The provisions that address the right of peaceful assembly and the right of association guarantee the rights of individuals to meet together publicly and in private and to organize themselves into associations of individuals with a common interest in the political, social, cultural, religious, sporting, and other realms. These rights are not unrestricted and governments may place legal restrictions on the exercise of these rights, but only insofar as the restrictions are necessary to preserve such interests as national security, public safety, health, or the freedom of others.

In many respects, the rights of peaceful assembly and association form the bedrock of all civil and political rights. In their absence, it would be exceedingly difficult for individuals denied the rights of peaceful assembly and association to fully realize their other civil and political rights. For people with disabilities, the enjoyment of these rights is often hindered by inadequate accessibility to the venues of meetings, or to the information distributed. Given that exclusion from community is a pervasive feature of disability discrimination, the rights of peaceful assembly and association – and the conditions that make such rights realizable for people with disabilities – are fundamental in the disability context.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

(European) Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11, *entered into force* Sept. 21, 1970, 20 December 1971, 1 January 1990, and 1 November 1998, respectively

Article 11 Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

N. Freedom of Thought/Opinion and Information

All human beings are entitled to freedom of thought and opinion, even if the exercise of the idea in question would itself be illegal or otherwise in conflict with the ideas of others. In other words, this right recognizes the sanctity of the human mind to freely investigate, question and develop any idea. The right to information guarantees not only the right to exchange information with others and give expression to the ideas formed, but also the right to receive information so that ideas may be developed. Although some provisions place no restrictions on these rights, others stress that the rights also come with duties and responsibilities, and thus permit restrictions in the interest of preserving the rights or reputations of others, or preserving national security and public health or morals. While some provisions permit prior censorship in the furtherance of these interests, others stress the use of a system of liability for use when these interests are harmed by the exchange of information.

Access to information is essential if a person is to be able to develop as an individual and participate fully in society. In the context of disability, however, access to information is yet another right frequently restricted in its application by inadequate consideration of the issue of accessibility. Many people with disabilities require assistive technologies or alternative formats (such as Braille or sign language) to enable them to access needed information. Similarly, the denial of such services and/or materials can severely hamper the ability of people with disabilities to fully communicate the ideas that they wish to express.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123,*entered into force* July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992)

Article 13 Freedom of Thought and Expression

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

a. respect for the rights or reputations of others; or

b. the protection of national security, public order, or public health or morals.

3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.

5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

O. Political and Public Life

Political and public life refers to the rights of people to participate in the governing of their country through elections, political activities, and the holding of public office. Although these rights may frequently be restricted to those who are citizens and who do not have a criminal record, in practice people with disabilities often face many more restrictions. People with disabilities often have no opportunity to exercise their rights in connection political activities. For example, inaccessible voting booths prevent many people with disabilities from participating in elections, and for those who are able to vote, inappropriate efforts to improve accessibility frequently violate the disabled voter's right to privacy and a secret ballot. In addition, legislation governing who has the right to vote often disenfranchises those who have mental disabilities, even when the disability does not in fact hinder an individual's ability to make an informed decision. Societal discrimination also prohibits many people with disabilities from holding public office, again limiting the ability of people with disabilities to take an active role in the governing of the societies in which they live.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992)

Article 23 Right to Participate in Government

1. Every citizen shall enjoy the following rights and opportunities:

   a. to take part in the conduct of public affairs, directly or through freely chosen representatives;

   b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and

   c. to have access, under general conditions of equality, to the public service of his country.

2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

P. Medical Care/Health/Rehabilitation

While health-related human rights provisions do not guarantee the right of people to health, they do recognize the right of all to access to health care, so that people may attain the highest level of health of which they themselves are capable. Although restrictions can be placed on this right, recognizing the limited resources of the State, restrictions do not recognize the right of the State to limit health care on an individual basis. In other words, there is no scope for discrimination against individuals in the implementation of this right.

People with disabilities are often restricted in their access to adequate health care because of individual discrimination, or because of a societal policy of distributing resources in a manner that limits the resources available for the provision of health-care to people with disabilities. In many instances, these unfair limitations in access to health care further restrict the ability of people with disabilities in other human right areas. For instance, many people with disabilities who would be fully able to work if their general health were maintained cannot work because they do not have access to general health care.

In many instances throughout the world, people with disabilities are subjected to inappropriate and highly detrimental "treatment" and practices in the name of health care or rehabilitation. In other cases, people with disabilities – particularly children or people with mental disabilities – are subjected to medical experimentation in the absence of any procedure for consent or other protections. Even where consent is sought, people are often unable to provide full and informed consent, because the information they need to make an informed decision is not provided in an appropriately accessible format. People with both physical and mental disabilities are often subject to procedures, hospitalization and institutionalization against their will and are often housed in institutions which purport to provide beneficial treatment but which are all too often warehouses where egregious abuses take place. It is also appropriate to mention here that the mental and physical health of people with disabilities can be severely impacted by the implementation of harmful traditional practices (such as female genital mutilation) that can exacerbate existing disabilities, or lead to the development of otherwise preventable disabilities.

(See Annex (IV) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.

2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular

Q. Employment/Social Security/Income Maintenance

In the same way that right to health provisions do not guarantee full health, provisions guaranteeing the right to work do not guarantee that every individual will be given a job. Rather, they guarantee the right of an individual to the opportunity to gain his or her living by work freely chosen by that individual. Provision of this opportunity may entail removing educational and discriminatory barriers that face the individual. In addition, the individual is guaranteed fair pay and favorable working conditions. Where the individual is unable to gain an adequate living through employment, social security and income maintenance provisions guarantee the right to an adequate standard of living.

In the context of employment, people with disabilities again often face discrimination, with employers unwilling to hire them and/or unwilling to make reasonable accommodations that would improve (or make possible) conditions of work. Where people with disabilities do have access to work or vocational rehabilitation, employment is often on the basis of lower wages with reduced benefits. In many instances, the work is not linked to the person's abilities and skills, and is determined on the basis of a third person's assessment without input from the person in question. Even in cases where people with disabilities do find employment, they face endemic workplace harassment. People with disabilities often have to rely upon an inadequate income maintenance system in order to maintain their standard of living. They may live outside the social system and belong to the poorest sector of society.

(See Annex (V) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

, 529 U.N.T.S. 89, *entered into force* Feb. 26, 1965

Part I

The Contracting Parties accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in an occupation freely entered upon.

Part II

The Contracting Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

Article 1 The right to work

With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

1. To accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;

2. To protect effectively the right of the worker to earn his living in an occupation freely entered upon;

3. To establish or maintain free employment services for all workers;

4. To provide or promote appropriate vocational guidance, training and rehabilitation.

R. Education

Education provisions tend to take a non-discrimination approach, guaranteeing the right of all to education with the objective of full human development and full participation in society. Some provisions specify that the education provided shall be State funded, while other provisions do not specify whether the education will be publicly or privately funded. Many provisions recognize the right of parents to choose the type of education their children receive, particularly as it relates to religious and moral teachings.

The provision of education to people who have, or who are perceived as having, 'special needs' is often unaddressed in the human rights field, although it is occasionally addressed in the context of vocational training. Thus, people with disabilities, particularly those with intellectual disabilities, frequently find themselves forced into an educational setting not of their choosing and often not appropriate to their actual needs. So often people with disabilities receive inferior and inappropriate educational experiences, both in mainstream and segregated schools. People with disabilities also find themselves excluded from higher education on the basis of discrimination. All of these actions serve to limit the ability of many people with disabilities to develop their full potential as individuals, and to participate fully in society.

(See Annex (VI) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

.S. 93, *entered into force* May 22, 1962

Article 1

1. For the purpose of this Convention, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

(a) Of depriving any person or group of persons of access to education of any type or at any level;

(b) Of limiting any person or group of persons to education of an inferior standard;

(c) Subject to the provisions of article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or

(d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

2. For the purposes of this Convention, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

S. Family

The international human rights framework recognizes the importance of the family unit in human life, and the need for legal protection of the family. Unfortunately, the main human rights conventions do not explicitly link protection of the family to people with disabilities, meaning that people with disabilities do not currently enjoy the highest levels of protection with regard to their rights to live with their families, marry, have intimate relationships, and start their own families.

(See Annex (VII) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

T. Culture and Religion

All people have the right to participate in the cultural life of their community, and the right to hold, express, and practice their religious beliefs without facing harassment or coercion to change them. To the extent that restrictions may be placed on these rights, these restrictions may be in furtherance of such interests as public safety and the protection of the rights and freedoms of others. Thus, people with disabilities should not, as they often are, be restricted from the practice of their religious beliefs, nor should they be prohibited from participating in the cultural life of the community.

(See Annex (VIII) for example from the UN Standard Rules on the Equalization of Opportunities for People With Disabilities.)

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

U. Linguistic Minorities

International human rights law recognizes the rights of linguistic minorities to use and develop their own languages and cultures, and also to access language education so that they may attain fluency in additional "official" or "national" languages. Such protections are of great relevance to those people with disabilities who utilize sign language, Braille, or other methods of communication.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169), 72 ILO Official Bull. 59, *entered into force* Sept. 5, 1991

Article 28

1. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective.

2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country.

3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned.

Article 30

1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.

2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

V. Recreation and Sports

In addition to favorable conditions of work, all people have a right to rest and leisure time to engage in recreation and activities such as sports. People with disabilities may face discrimination both in their receipt of leisure time and also in their access to recreational activities, such as sports. In some cases this discrimination manifests itself in the complete denial of access to these activities, while in other cases people with disabilities may be denied the accommodations necessary to facilitate their involvement.

International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular...

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular...

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

W. Nationality/Freedom of Movement

Human rights provisions are unambiguous in their guarantee of the right of all people to a nationality. In addition, all people have the right to move freely within the borders of their State, as well as to leave and return to it, subject only to restrictions necessary to protect interests such as national security, public safety, health, and the prevention of crime.

Many people with disabilities are denied their right to a nationality and/or they are denied their right to possess the indicia of their nationality with the discriminatory confiscation of their identification and other similar papers. This restricts their freedom of movement both within and outside of their country. Freedom of movement can also be physically restricted by confinement of people with disabilities in institutions, as well as through the denial of accessible streets, buildings and transport. For those people with disabilities who wish to immigrate to other countries, immigration laws that overtly discriminate against people with disabilities can also serve to restrict their freedom of movement.

American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123,*entered into force* July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992)

Article 20 Right to Nationality

1. Every person has the right to a nationality.

2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.

3. No one shall be arbitrarily deprived of his nationality or of the right to change it.

Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, E.T.S. No. 46, *entered into force* May 2, 1968

Article 2

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of "ordre public", for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interests in a democratic society.

Article 3

1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.

2. No one shall be deprived of the right to enter the territory of the State of which he is a national.

Article 4

Collective expulsion of aliens is prohibited.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

X. Refugees/IDPs

If a person will be the subject of persecution in their country on such grounds as race, religion, political or social group, or political belief, they may be entitled under the Refugee Convention to seek asylum in another country. If they satisfy the requirements of that convention, or if they can show that they will be subjected to torture or genocide (forms of persecution from which we are all supposed to be free), they will be granted the right of non-refoulement, so that they may be sent to another country but not back to the country where they will face persecution.

For those who are persecuted on the grounds of their disability, they, like people persecuted on such grounds as gender (a category not listed in the Refugee Convention), frequently have difficulty accessing the protection of the Refugee Convention. Those who are able to gain the protection of non-refoulement may, however, not receive the type of health care or level of accessibility required, particularly if they are housed in a refugee detention center or camp. This can be particularly true for children with disabilities who become separated from their families. Although these children are entitled to the same rights as other refugee children to receive adequate care and to be reunited with their families, children with disabilities are often at risk of being neglected, or becoming trapped in institutions with little hope of family reunification.

For those people with disabilities who are internally displaced (e.g., displaced within their own country) either through natural, economic or other catastrophe, the fact that the Refugee Convention does not apply to them means that levels of protection can be even lower, thus placing them in further jeopardy.

efugees, 189 U.N.T.S. 150, *entered into force* April 22, 1954

Article 1 Definition of the term "refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before I January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national...

Article 32 Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33 Prohibition of expulsion or return ("refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

CATEGORY III. INSTITUTIONS

It is common for many treaties to set forth not only substantive obligations, but also provisions establishing institutions to address how the treaty will be implemented. This is now standard practice for international human rights conventions, with the main treaties establishing – usually within the treaty itself – committees or "treaty-monitoring bodies" to monitor State compliance with obligations. International environmental treaties have particularly well-developed institutions, which take the form of administrative secretariats, treaty-monitoring bodies, and scientific and technology committees. These institutions provide monitoring, conduct data gathering and analysis and perform other functions related to the implementation of the treaty. Such institutional bodies also provide civil society with venues for active participation in the process of implementation, either through direct contact with the States Parties at conferences, or through submission of information and reports.

The establishment of permanent institutions for an international treaty on the human rights of people with disabilities will provide disability-related groups with crucial opportunities to contribute to the effective implementation of the treaty. A strong treaty-monitoring body, which includes qualified people with disabilities serving in key positions, is essential for a legitimate and credible enforcement mechanism. Furthermore, to address the complicated issues surrounding data collection and analysis of disability issues, the establishment of an additional technical body composed primarily of people with disabilities with relevant experience and expertise seems compelling. Although this would represent an innovation in international human rights conventions, such a model deserves some attention give the fact that it has found success in the international environmental law context. Whatever the ultimate format of the treaty institutions, it is crucial that the institutions be established on an equal footing with existing human rights institutions, so that resources are allocated in a manner that facilitates their effective functioning.

A. Secretariat

The secretariat forms the administrative body for a treaty, receiving and processing general information and reports, arranging meetings, as well as performing other day-to-day treaty-related administrative tasks. In some instances – particularly in the context of international environmental law treaties – a treaty will provide for the establishment of a secretariat within the terms of the agreement. In other cases – and this is the norm in international human rights treaties – a treaty will simply designate an international organization within its system to provide the necessary staff and facilities for the functions of the treaty to be performed. Examples from the environmental and human rights contexts are provided below.

The United Nations Convention to Combat Desertification (UNCCD), adopted June 17, 1994, 33 I.L.M. 1332 (1994), *entered into force* Dec. 26, 1996

Article 23 Permanent Secretariat

1. A Permanent Secretariat is hereby established.

2. The functions of the Permanent Secretariat shall be:

(a) to make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;

(b) to compile and transmit reports submitted to it;

(c) to facilitate assistance to affected developing country Parties, on request, particularly those in Africa, in the compilation and communication of information required under the Convention;

(d) to coordinate its activities with the secretariats of other relevant international bodies and conventions;

(e) to enter, under the guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(f) to prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties; and

(g) to perform such other secretariat functions as may be determined by the Conference of the Parties.

3. The Conference of the Parties, at its first session, shall designate a Permanent Secretariat and make arrangements for its functioning.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986

Article 41

The Secretary-General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services...

B. Monitoring Bodies

International treaties in the environmental and human rights contexts typically establish an institution to oversee the implementation of and compliance with treaty obligations. Such subsidiary bodies, commonly referred to as "committees" or "treaty-monitoring bodies" are frequently tasked with collecting information (usually in the form of reports) submitted by participating States on measures taken to implement treaty obligations. Such bodies are also empowered to evaluate and report upon the implementation process. Treaty-monitoring bodies receive information concerning compliance and implementation from NGOs or other entities. This is usually on an informal basis or is sometimes provided for in their rules of procedure. If the rights of people with disabilities are to be developed and interpreted in any meaningful way, the right of participation must be fully enforced so that people with disabilities play a central role in the functioning of any treaty monitoring bodies, both as members of a monitoring committee and through the active participation of disability organizations. Also, if the monitoring bodies are to participate constructively in the development and interpretation of the human rights of people with disabilities, they must be accorded adequate resources to meet for sufficient periods of time.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

continued next page

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the p esent article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

C. The Participation of Non-State Actors in International Treaty Processes

The participation of non-state actors to treaties is sometimes provided for in the text of the treaty itself. This is particularly so for international environmental law treaties which allow for the participation of relevant inter-governmental bodies, NGOs and other actors as observers in meetings of the States Parties or in meetings of relevant treaty monitoring bodies. Given the pattern of exclusion experienced by people with disabilities in decision-making processes at both the national and international level, the participation of people with disabilities and their representative organizations in any institutions and mechanisms created by an international convention on the rights of people with disabilities will be essential. The Convention on the Rights of the Child provides one good example in the human rights context. There are other examples of provisions allowing for the participation of non-parties in the environmental and some other contexts, although the participation of non-state actors in these types of treaties this type of participation often occurs as a part of periodic Conferences of the Parties which are not a usual feature of human rights treaties.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities; ...

Convention on the Prohibition of the use, stockpiling, production and transfer of antipersonnel mines and on their destruction, adopted at Oslo, Norway on September 18, 1997, *entered into force* Mar. 1, 1999

Article 11 Meetings of the States Parties

...

4. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

Article 12 Review Conferences

...

3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

July 1, 1975

Article XI Conference of the Parties

6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.

7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

D. Technical Bodies

Where particular expertise is required to assess information relating to the implementation of a treaty, a more technical body may also be established by a treaty provision, distinguished in its data-gathering role from the main treaty monitoring committee. Such treaty-established technical bodies typically consist of individuals with particularized expertise in the area in question. In the context of a human rights treaty for people with disabilities, it might consist of a separate committee with unique disability and human rights experience with full participation by people with disabilities and representing all segments of the disability community. Given the lack of expertise on disability policy and issues in international organizations, such a body may well be warranted in an international convention on the rights of people with disabilities.

The United Nations Framework Convention on Climate Change, adopted May 9, 1992, 31 I.L.M. 849 (1992), *entered into force* Mar. 21, 1994

Article 9 Subsidiary Body for Scientific and Technical Advice

1. A subsidiary body for scientific and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, and drawing upon existing competent international bodies, this body shall:

(a) Provide assessments of the state of scientific knowledge relating to climate change and its effects;

(b) Prepare scientific assessments on the effects of measures taken in the implementation of the Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes, international cooperation in research and development related to climate change, as well as on ways and means of supporting endogenous capacity-building in developing countries; and

(e) Respond to scientific, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions and terms of reference of this body may be further elaborated by the Conference of the Parties.

The United Nations Convention to Combat Desertification (UNCCD), adopted June 17, 1994, 33 I.L.M. 1332 (1994), *entered into force* Dec. 26, 1996

Article 24 Committee on Science and Technology

1. A Committee on Science and Technology is hereby established as a subsidiary body of the Conference of the Parties to provide it with information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of drought. The Committee shall meet in conjunction with the ordinary sessions of the Conference of the Parties and shall be multidisciplinary and open to the participation of all Parties. It shall be composed of government representatives competent in the relevant fields of expertise. The Conference of the Parties shall decide, at its first session, on the terms of reference of the Committee.

2. The Conference of the Parties shall establish and maintain a roster of independent experts with expertise and experience in the relevant fields. The roster shall be based on nominations received in writing from the Parties, taking into account the need for a multidisciplinary approach and broad geographical representation.

3. The Conference of the Parties may, as necessary, appoint ad hoc panels to provide it, through the Committee, with information and advice on specific issues regarding the state of the art in fields of science and technology relevant to combating desertification and mitigating the effects of drought. These panels shall be composed of experts whose names are taken from the roster, taking into account the need for a multidisciplinary approach and broad geographical representation. These experts shall have scientific backgrounds and field experience and shall be appointed by the Conference of the Parties on the recommendation of the Committee. The Conference of the Parties shall decide on the terms of reference and the modalities of work of these panels.

CATEGORY IV. MONITORING TREATY OBLIGATIONS AND IMPLEMENTATION TECHNIQUES

A. Reporting

A standard method of monitoring compliance with treaty obligations by States Parties is to require States to provide period reports on measures they have taken to implement the treaty provisions. The reporting obligation is normally established in the treaty and may require States to report to the established treaty monitoring body or to other States Parties. Such reporting is a typical feature of international human rights as well as other types of international treaties, particularly environmental law treaties.

Reporting procedures are a standard technique for monitoring compliance with treaty obligations and in helping to ensure that States have taken action to implement their obligations. A reporting obligation arises where a party to a treaty is required to provide a periodic report to the institutions established under the treaty – usually the treaty monitoring body or committee – or to other States Parties under the treaty. These reporting requirements oblige States to report on the measures they have taken in the implementation of their treaty commitments. Reporting is a typical feature of international human rights treaties as well as other types of international treaties, particularly international environmental law agreements. Reports may be required annually, bi-annually or according to some other time frame and may require general or very detailed information regarding efforts to implement the treaty, obstacles faced in implementation, and other matters. They allow the treaty monitoring body and the other States Parties to assess the extent to which obligations are being met. The strongest treaty reporting provisions are those that specify what information that States Parties must include in their reports. In the human rights context, the reporting provisions tend to be quite general but may be supplemented by treaty-monitoring guidelines over time. Still, given the complexity of disability-related human rights issues and the problems with gathering credible information on disability in the past, reporting provisions in a convention on the rights of people with disabilities should be as detailed and specific as possible.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.

International Convention for the Regulation of Whaling, adopted 2 December 1946, *entered into force* Nov. 10, 1948

Article VIII

1. Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.

2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.

3. Each Contracting Government shall transmit to such body as may be designated by the Commission, in so far as practicable, and at intervals of not more than one year, scientific information available to that Government with respect to whales and whaling, including the results of research conducted pursuant to paragraph 1 of this Article and to Article IV.

4. Recognizing that continuous collection and analysis of biological data in connection with the operations of factory ships and land stations are indispensable to sound and constructive management of the whale fisheries, the Contracting Governments will take all practicable measures to obtain such data.

B. Information Gathering

In some instances, international agreements—particularly in the environmental context—require that information relevant to specific or general obligations be collected. Such activities may be undertaken by States individually or jointly, or by international organizations. The reasons for such information gathering may include research or identifying patterns and trends that reflect the state of the problems covered by the treaty. For example, a number of environmental law treaties require information to be provided on health of workers, carriage of oil, air quality of the working environment, fisheries conservation levels, marine environment, and freshwater resources. It should be noted that when the information is gathered, those participating in the collection process should take all steps necessary to preserve the privacy of those providing information.

Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 33 I.L.M. 1534 (1994), *entered into force* Mar. 5, 1995

Article 8

The States Parties agree to undertake progressively specific measures, including programs: ...

(h). to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; ...

The United Nations Convention to Combat Desertification (UNCCD), adopted June 17, 1994, 33 I.L.M. 1332 (1994), *entered into force* Dec. 26, 1996

Article 16 Information collection, analysis and exchange

The Parties agree, according to their respective capabilities, to integrate and coordinate the collection, analysis and exchange of relevant short term and long term data and information to ensure systematic observation of land degradation in affected areas and to understand better and assess the processes and effects of drought and desertification. This would help accomplish, inter alias, early warning and advance planning for periods of adverse climatic variation in a form suited for practical application by users at all levels, including especially local populations. To this end, they shall, as appropriate:

(a) facilitate and strengthen the functioning of the global network of institutions and facilities for the collection, analysis and exchange of information, as well as for systematic observation at all levels, which shall, inter alias:

(i) aim to use compatible standards and systems;

(ii) encompass relevant data and stations, including in remote areas;

(iii) use and disseminate modern technology for data collection, transmission and assessment on land degradation; and

(iv) link national, sub regional and regional data and information centres more closely with global information sources;

(b) ensure that the collection, analysis and exchange of information address the needs of local communities and those of decision makers, with a view to resolving specific problems, and that local communities are involved in these activities;

(c) support and further develop bilateral and multilateral programmes and projects aimed at defining, conducting, assessing and financing the collection, analysis and exchange of data and information, including, inter alias, integrated sets of physical, biological, social and economic indicators;

(d) make full use of the expertise of competent intergovernmental and non-governmental organizations, particularly to disseminate relevant information and experiences among target groups in different regions;

(e) give full weight to the collection, analysis and exchange of socio-economic data, and their integration with physical and biological data;

(f) exchange and make fully, openly and promptly available information from all publicly available sources relevant to combating desertification and mitigating the effects of drought; and

(g) subject to their respective national legislation and/or policies, exchange information on local and traditional knowledge, ensuring adequate protection for it and providing appropriate return from the benefits derived from it, on an equitable basis and on mutually agreed terms, to the local populations concerned.

C. Information Exchange

Information exchange provisions seek to ensure that information gathered pursuant to the treaty in question is effectively utilized and shared. Many information exchange provisions require States Parties to cooperate by shar ing research or other information with each other either directly or through a treaty secretariat or other information gathering body. In addition, some provisions require States Parties (particularly developed countries) to assist those (usually developing countries) that are less resource-rich in collecting, analyzing, distributing and developing the research mandated by the treaty.

Vienna Convention for the Protection of the Ozone Layer, adopted March 22, 1985, 26 I.L.M. 1529 (1987), *entered into force* Sept. 22, 1988

Article 4 Co-operation in the legal, scientific and technical fields

1. The Parties shall facilitate and encourage the exchange of scientific, technical, socio-economic, commercial and legal information relevant to this Convention as further elaborated in annex II. Such information shall be supplied to bodies agreed upon by the Parties. Any such body receiving information regarded as confidential by the supplying Party shall ensure that such information is not disclosed and shall aggregate it to protect its confidentiality before it is made available to all Parties.

2. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, the development and transfer of technology and knowledge. Such co-operation shall be carried out particularly through:

(a) Facilitation of the acquisition of alternative technologies by other Parties;

(b) Provision of information on alternative technologies and equipment, and supply of special manuals or guides to them;

(c) The supply of necessary equipment and facilities for research and systematic observations;

(d) Appropriate training of scientific and technical personnel.

Stockholm Convention on Persistent Organic Pollutants, adopted 23 May 2001, 40 I.L.M. 532 (2001), *not yet in force*

Article 9 Information exchange

1. Each Party shall facilitate or undertake the exchange of information relevant to:

(a) The reduction or elimination of the production, use and release of persistent organic pollutants; and

(b) Alternatives to persistent organic pollutants, including information relating to their risks as well as to their economic and social costs.

2. The Parties shall exchange the information referred to in paragraph 1 directly or through the Secretariat.

3. Each Party shall designate a national focal point for the exchange of such information.

4. The Secretariat shall serve as a clearing-house mechanism for information on persistent organic pollutants, including information provided by Parties, intergovernmental organizations and nongovernmental organizations.

5. For the purposes of this Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

D. Public Education and Training

With increasing regularity, international treaties require States Parties to improve public awareness and education in a given area. This is particularly true for international environmental agreements, though other treaties simi larly give attention to public awareness and education. Training, which is slightly more specific, features in some international treaties on topics such as protection of workers. Finally, certain treaties provide for publicity to be given to particular hazards, specially protected areas, or to maritime naviga tion dangers.

In the context of disability, public education and awareness features as a central component and precondition to equalizing the opportunities of peo ple with disabilities and are recognized as such in Rule 1 of the UN Standard Rules. *(See Annex (I) for Rule 1)* Public education and awareness about dis ability is crucial in order to address stereotypes and prejudices against people with disabilities and for members of society to understand and appreciate the human rights to which people with disabilities are entitled. Training about disability (regarding legal issues, reasonable accommodations, accessibility, etc.) is likewise of fundamental importance if people with disabilities are to be fully integrated into society, whether in the workplace, public life, educa tional arena or elsewhere. Media training is also very important as the media can play a crucial role in dispelling stereotypes by providing positive, accurate portrayals of people with disabilities. Finally, publicity and public awareness education regarding environmental dangers is relevant in situations where people face the risk of preventable disabilities as a result of landmines, unexploded ordinances or other hazards.

The following provisions pertaining to education, awareness and publici ty provide some indication of how provisions concerning these issues have been framed in existing international treaties

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], *entered into force* June 26, 1987

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

, adopted 22 June 1992, 31 I.L.M. 818 (1992), Dec. 29, 1993

Article 13 Public Education and Awareness

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

The United Nations Framework Convention on Climate Change, adopted 9 May 1992, 31 I.L.M. 849 (1992), *entered into force* Mar. 21, 1994

Article 6 Education, Training and Public Awareness

In carrying out their commitments under Article 4, paragraph 1(i), the Parties shall:

(a) Promote and facilitate at the national and, as appropriate, sub regional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) The development and implementation of educational and public awareness programmes on climate change and its effects;

(ii) Public access to information on climate change and its effects;

(iii) Public participation in addressing climate change and its effects and developing adequate responses; and

(iv) Training of scientific, technical and managerial personnel.

(b) Cooperate in and promote, at the international level, and, where appropriate, using existing bodies:

(i) The development and exchange of educational and public awareness material on climate change and its effects; and

(ii) The development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts in this field, in particular for developing countries.

Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted 23 November 1972, 11 I.L.M. 1358 (1972), *entered into force* Dec. 17, 1995

VI. Educational Programmes

Article 27

1. The States Parties to this Convention shall endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention.

2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention.

E. Communications

Some international treaties, especially in the human rights field, establish procedures through which reports/communications of treaty violations can be submitted to a treaty monitoring body by States, interested groups or individuals. "Inter-state complaints" are submitted by one State alleging violations by another State. Often, the treaty will require a State to consent to the procedure before another State can register such a complaint. In the context of the Mine Ban Treaty, treaty provisions allow for inter-state "clarifications" for the resolution of questions regarding State implementation of the treaty. "Individual complaints" may also be provided for in treaty provisions, although in some instances a separate agreement may be established to provide for individuals or groups to submit allegations of State violations. For example, the International Covenant on Civil and Political Rights has a separate Optional Protocol to which States may become a party in order to allow for the possibility of individual communications. States parties identified in a communication are usually given an opportunity to respond, and then the relevant body examines the evidence and issues a report. The report will usually comment on the veracity of the claims alleged in the communication and what, if any, remedial measures must be taken by the relevant States Parties. The degree of public access to the communications, responses and reports varies between treaties. The establishment of a communications procedure for an international human rights treaty for people with disabilities could provide a highly effective tool for people with disabilities to participate in the oversight of the treaty implementation process. Such a procedure might also provide an avenue for the personal redress of human rights abuses committed under the treaty.

INTER-STATE COMPLAINTS

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Convention on the Prohibition of the use, stockpiling, production and transfer of antipersonnel mines and on their destruction. Adopted at Oslo, Norway on September 18, 1997, *entered into force* Mar. 1, 1999

Article 8 Facilitation and clarification of compliance

1.The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States parties with their obligations under this Convention.

2.If one or more States Parties wish to clarify and seek to resolve questions relating to compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information which would assist in clarifying this matter.

3.If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4.Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5.The requesting State Party may propose through the Secretary-General of the United Nations the convening of a Special Meeting of the States Parties to consider the matter. The Secretary-General of the United Nations shall thereupon communicate this proposal and all information submitted by the States Parties concerned, to all States Parties with a request that they indicate whether they favour a Special Meeting of the States Parties, for the purpose of considering the matter. In the event that within 14 days from the date of such communication, at least one-third of the States Parties favours such a Special Meeting, the Secretary-General of the United Nations shall convene this Special Meeting of the States Parties within a further 14 days. A quorum for this Meeting shall consist of a majority of States Parties.

6.The Meeting of the States Parties or the Special Meeting of the States Parties, as the case may be, shall first determine whether to consider the matter further, taking into account all information submitted by the States Parties concerned. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach a decision by consensus. If despite all efforts to that end no agreement has been reached, it shall take this decision by a majority of States Parties present and voting.

7.All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfillment of its review of the matter, including any fact-finding missions that are authorized in accordance with paragraph 8.

...

INDIVIDUAL COMPLAINTS

Optional Protocol to the International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 59, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 302, *entered into force* Mar. 23, 1976

Article 1

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

CATEGORY IV. IMPLEMENTING PROVISIONS

Unlike the substantive provisions that define the content of the human rights obligations, the implementing provisions determine how the treaty will take effect. For example, the implementing provisions determine which States are eligible to become parties to the convention, how those States may become parties, and how and when the treaty will becoming binding against the States Parties. The implementing provisions will also indicate whether and how States Parties can limit the application of any of the substantive obligations to themselves. This latter point is particularly important to examine, because a treaty can be seriously compromised if States are able to make extensive reservations that severely limit the application and implementation of substantive provisions in a reserving State.

A. Signature

The signing of a convention by the authorized representative of a State constitutes the first step towards a State becoming a party to the convention. Having signed the treaty, the State is not yet bound to abide by all the specific provisions of the treaty even if the treaty has come into force. Instead, the State is bound to abide by the object and purpose of the convention, i.e. the essential character of the convention as usually expressed in the convention's preambular text. This level of obligation is maintained until the State either ratifies the treaty (causing it to assume responsibility for all of the provisions for which it has not filed a valid reservation), or sends notice that it is rejecting the treaty and has no intention of ever ratifying it (thus releasing it from any obligation to abide by the treaty). Multilateral treaties are usually open for signature to a broad range of States, but it is possible for a treaty to be restrictive so that, for example, only States members of a particular inter-governmental organization (such as the United Nations or one of its specialized agencies) may join.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981

Article 25

1. The present Convention shall be open for signature by all States.

2. The Secretary-General of the United Nations is designated as the depositary of the present Convention...

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

B. Ratification and Accession

Ratification refers to the act by which a State becomes a member or "States Party" to a treaty within the period specified by the treaty. Unless a process of accession is used to attain membership (i.e. the period for signing a treaty has ended and a State instead joins by depositing an instrument of accession with the appropriate body). A State will usually sign the convention, and then send the document to its governing legislature for ratification. The actual process of ratification is governed by domestic laws, and so is different in each country. If the time period has expired for signing and ratifying the treaty, a process of accession can be used to attain membership instead. Generally, this is done by a State depositing an instrument of accession with the appropriate body.

.S. 277,
Jan. 12, 1951

Article 11

The present Convention shall be open until 31 December 1949 for signature on behalf of any member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be depositied with the Secretary-General of the United Nations.

After 1 January 1950, the present convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitiation as aforesaid. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

C. Reservations, Understandings and Declarations (RUDs)

Although some treaties do not permit the filing of RUDs, most will permit States to file RUDs at the time they ratify or accede to a convention. RUDs are tools used by States to limit the scope of application of a convention, or to make clear how a State interprets some aspect of the convention. For example, if a provision of a treaty will violate a State's domestic constitutional provisions, that State will usually file a reservation to the provision so that the specified provision does not apply to the State and cannot be enforced against it. If the reservation contravenes the essential object and purpose of a treaty, then the reservation will be invalid and the treaty provision in question will usually still apply to the State. Treaties will often be divided up into derogable and non-derogable provisions, so that States may make reservations to certain treaty provisions, but not to others. While understandings and declarations do not exempt the application of convention provisions to a State, they do provide States with an opportunity to clarify how they believe a particular provision should be interpreted. The process of accepting or rejecting the RUDs of one State by another is complicated and has implications for the relationship between the two States in question (as well as spillover effects between each of those States and other States). Rules regarding this process can be found in the Vienna Convention on the Law of Treaties.

The United Nations Convention to Combat Desertification (UNCCD), adopted June 17, 1994, 33 I.L.M. 1332 (1994), *entered into force* Dec. 26, 1996

Article 37 Reservations

No reservations may be made to this Convention.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

D. Entry into Force

The treaty becomes fully enforceable upon States Parties once it has "entered into force." Typically, a treaty will specify how many States must become parties to the treaty before it enters into force. If the specified number of States Parties is never reached, then the treaty is never fully binding upon the States Parties. If a State becomes a party to a treaty after the treaty has entered into force, the treaty may enter into force immediately for that new party, or it may enter into force at a later date depending upon the provisions of the treaty. (e.g. ICCPR Art. 49(2).)

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

E. Duration and Withdrawal

A treaty will often specify the length of time for which it will apply, be that a matter of years or indefinitely. Some treaties specify that they will remain in force for a designated number of years, at the end of which the States Parties may agree to extend the duration of the treaty for an additional period. Other treaties make no mention of duration and thus are deemed to last indefinitely, or at least until such time as the States Parties agree to abandon the treaty. Some treaties include provisions specifying whether and how a States Party may withdraw from a treaty so that the State is no longer bound by the terms of the treaty, although this is less common for international human rights treaties.

.S. 277, Jan. 12, 1951

Article 14

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article 15

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article 16

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Convention on the Prohibition of the use, stockpiling, production and transfer of antipersonnel mines and on their destruction. Adopted at Oslo, Norway on September 18, 1997, *entered into force* Mar. 1, 1999

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating this withdrawal.

3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

F. Amendment

It is not uncommon for human rights treaties to foresee the need for changes and additions to the obligations expressed in the treaty. Thus, many treaties provide for an amendment procedure to effect changes in the original treaty text. In some instances, separate agreements in the form of optional protocols are later adopted which do not act to amend the original treaty provisions, but instead introduce new obligations developed in relationship to the original treaty. Such optional protocols are themselves treaties and are binding only upon those States that choose to become parties to them.

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval...

RESOURCES

For more detailed information concerning the effort to draft an international treaty on the human rights of people with disabilities, or international human rights law generally, the following resources may be useful:

http://www.ncd.gov – National Council on Disability website

http://www.sre.gob.mx/discapacidad – Office of the Mexican President, offering information on the development of an International Human Rights Convention for People with Disabilities

http://www1.umn.edu/humanrts – University of Minnesota Human Rights Library website, offering online human rights documentation

http://www.un.org/esa/desa.htm – United Nations Department of Economic and Social Affairs website, offering info on the UN Program on Disability and disability specific resources

http://www.unhchr.ch – Office of the United Nations High Commissioner for Human Rights

Gerard Quinn & Theresia Degener, et. al., "Human Rights Are for All: A Study on the Current Use and Future Potential of the UN Human Rights Instruments in the Context of Disability" (February 2002).

Theresia Degener & Yolan Koster-Dreese eds., Human Rights and Disabled Persons: Essays and Relevant Human Rights Instruments (Martinus Nijhoff Publishers 1995).

Theresia Degener & Gerard Quinn, A Survey of International, Comparative and Regional Disability Law Reform (Disability Rights and Education Defence Fund). Available at: http://www.sre.gov.mx/discapacidad/papertdegener1.htm

Thomas Buergenthal, International Human Rights (West 1995).

Thomas Buergenthal, International Public Law (West 1990).

Hurst Hannum ed., Guide to International Human Rights Practice (Transnational 1999).

Henry J. Steiner & Philip Alston eds., International Human Rights in Context: Law, Politics, Morals (Oxford 2000).

ANNEX

The UN Standard Rules on the Equalization of Opportunities for People With Disabilities (Standard Rules) is a non-binding document, developed by the Commission on Social Development, to serve as a blueprint for States' policy-making on disability issues and to provide a common frame of reference among States. Because it is a non-binding instrument, references and examples from it are not included in the body of the reference tool which is limited to sample provisions from international law. Its legal status notwithstanding, the UN Standard Rules is a widely known and frequently referenced document and has some valuable provisions and language that should be considered by those involved in the development of a convention on the rights of people with disabilities.

I. Reference page: 9—Subject: Stereotyping

The UN Standard Rules recognizes the risks associated with stereotyping and, in Rule 1, outlines awareness-raising activities to address stereotyping against people with disabilities.

Rule 1. Awareness-raising

1. States should take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential and their contribution.
2. States should ensure that responsible authorities distribute up-to-date information on available programmes and services to persons with disabilities, their families, professionals in the field and the general public. Information to persons with disabilities should be presented in accessible form.
3. States should initiate and support information campaigns concerning persons with disabilities and disability policies, conveying the message that persons with disabilities are citizens with the same rights and obligations as others, thus justifying measures to remove all obstacles to full participation.
4. States should encourage the portrayal of persons with disabilities by the mass media in a positive way; organizations of persons with disabilities should be consulted on this matter.
5. States should ensure that public education programmes reflect in all their aspects the principle of full participation and equality.
6. States should invite persons with disabilities and their families and organizations to participate in public education programmes concerning disability matters.

ANNEX *continued*

7. States should encourage enterprises in the private sector to include disability issues in all aspects of their activity.

8. States should initiate and promote programmes aimed at raising the level of awareness of persons with disabilities concerning their rights and potential. Increased self-reliance and empowerment will assist persons with disabilities to take advantage of the opportunities available to them.

8. Awareness-raising should be an important part of the education of children with disabilities and in rehabilitation programmes. Persons with disabilities could also assist one another in awareness-raising through the activities of their own organizations.

9. Awareness-raising should be part of the education of all children and should be a component of teacher-training courses and training of all professionals.

II. Reference Page: 10—Subject: Participation

The UN Standard Rules recognizes the importance of participation in decision-making for people with disabilities and in Rule 18 outlines the role of organizations of people with disabilities in providing representation at all levels.

Rule 18. Organizations of persons with disabilities

States should recognize the right of the organizations of persons with disabilities to represent persons with disabilities at national, regional and local levels. States should also recognize the advisory role of organizations of persons with disabilities in decision-making on disability matters.

1. States should encourage and support economically and in other ways the formation and strengthening of organizations of persons with disabilities, family members and/or advocates. States should recognize that those organizations have a role to play in the development of disability policy.

2. States should establish ongoing communication with organizations of persons with disabilities and ensure their participation in the development of government policies.

3. The role of organizations of persons with disabilities could be to identify needs and priorities, to participate in the planning, implementation and evaluation of services and measures concerning the lives of persons with disabilities, and to contribute to public awareness and to advocate change.

4. As instruments of self-help, organizations of persons with disabilities provide and promote opportunities for the development of skills in various fields, mutual support among members and information sharing.

ANNEX *continued*

5. Organizations of persons with disabilities could perform their advisory role in many different ways such as having permanent representation on boards of government-funded agencies, serving on public commissions and providing expert knowledge on different projects.
6. The advisory role of organizations of persons with disabilities should be ongoing in order to develop and deepen the exchange of views and information between the State and the organizations.
7. Organizations should be permanently represented on the national coordinating committee or similar bodies.
8. The role of local organizations of persons with disabilities should be developed and strengthened to ensure that they influence matters at the community level.

III. Reference Page: 14—Subject: Sexual Exploitation and Related Abuses

Rule 9 of the UN Standard Rules specifically calls for States to take measures to decrease the incidences of abuse, and to educate people on how to identify victims of abuse and take action to report such abuse.

Rule 9. Family life and personal integrity

States should promote the full participation of persons with disabilities in family life. They should promote their right to personal integrity and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

1. Persons with disabilities should be enabled to live with their families. States should encourage the inclusion in family counselling of appropriate modules regarding disability and its effects on family life. Respite-care and attendant-care services should be made available to families which include a person with disabilities. States should remove all unnecessary obstacles to persons who want to foster or adopt a child or adult with disabilities.
2. Persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood. Taking into account that persons with disabilities may experience difficulties in getting married and setting up a family, States should encourage the availability of appropriate counselling. Persons with disabilities must have the same access as others to family-planning methods, as well as to information in accessible form on the sexual functioning of their bodies.

ANNEX *continued*

3. States should promote measures to change negative attitudes towards marriage, sexuality and parenthood of persons with disabilities, especially of girls and women with disabilities, which still prevail in society. The media should be encouraged to play an important role in removing such negative attitudes.

4. Persons with disabilities and their families need to be fully informed about taking precautions against sexual and other forms of abuse. Persons with disabilities are particularly vulnerable to abuse in the family, community or institutions and need to be educated on how to avoid the occurrence of abuse, recognize when abuse has occurred and report on such acts.

IV.Reference Page: 26—Subject: Medical Care/Health/Rehabilitation

The UN Standard Rules, in Rules 2, 3, and 4, outline preconditions for equal participation in society in the areas of medical care, rehabilitation and support services.

Rule 2. Medical care

States should ensure the provision of effective medical care to persons with disabilities.

1. States should work towards the provision of programmes run by multidisciplinary teams of professionals for early detection, assessment and treatment of impairment. This could prevent, reduce or eliminate disabling effects. Such programmes should ensure the full participation of persons with disabilities and their families at the individual level, and of organizations of persons with disabilities at the planning and evaluation level.

2. Local community workers should be trained to participate in areas such as early detection of impairments, the provision of primary assistance and referral to appropriate services.

3. States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society.

4. States should ensure that all medical and paramedical personnel are adequately trained and equipped to give medical care to persons with disabilities and that they have access to relevant treatment methods and technology.

5. States should ensure that medical, paramedical and related personnel are adequately trained so that they do not give inappropriate advice to parents, thus restricting options for their children. This training should be an ongoing process and should be based on the latest information available.

ANNEX *continued*

6. States should ensure that persons with disabilities are provided with any regular treatment and medicines they may need to preserve or improve their level of functioning.

Rule 3. Rehabilitation

States should ensure the provision of rehabilitation services to persons with disabilities in order for them to reach and sustain their optimum level of independence and functioning.

1. States should develop national rehabilitation programmes for all groups of persons with disabilities. Such programmes should be based on the actual individual needs of persons with disabilities and on the principles of full participation and equality.
2. Such programmes should include a wide range of activities, such as basic skills training to improve or compensate for an affected function, counselling of persons with disabilities and their families, developing self-reliance, and occasional services such as assessment and guidance.
3. All persons with disabilities, including persons with severe and/or multiple disabilities, who require rehabilitation should have access to it.
4. Persons with disabilities and their families should be able to participate in the design and organization of rehabilitation services concerning themselves.
5. All rehabilitation services should be available in the local community where the person with disabilities lives. However, in some instances, in order to attain a certain training objective, special time-limited rehabilitation courses may be organized, where appropriate, in residential form.
6. Persons with disabilities and their families should be encouraged to involve themselves in rehabilitation, for instance as trained teachers, instructors or counsellors.
7. States should draw upon the expertise of organizations of persons with disabilities when formulating or evaluating rehabilitation programmes.

Rule 4. Support services

States should ensure the development and supply of support services, including assistive devices for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights.

1. States should ensure the provision of assistive devices and equipment, personal assistance and interpreter services, according to the needs of persons with disabilities, as important measures to achieve the equalization of opportunities.

ANNEX *continued*

2. States should support the development, production, distribution and servicing of assistive devices and equipment and the dissemination of knowledge about them.

3. To achieve this, generally available technical know-how should be utilized. In States where high-technology industry is available, it should be fully utilized to improve the standard and effectiveness of assistive devices and equipment. It is important to stimulate the development and production of simple and inexpensive devices, using local material and local production facilities when possible. Persons with disabilities themselves could be involved in the production of those devices.

4. States should recognize that all persons with disabilities who need assistive devices should have access to them as appropriate, including financial accessibility. This may mean that assistive devices and equipment should be provided free of charge or at such a low price that persons with disabilities or their families can afford to buy them.

5. In rehabilitation programmes for the provision of assistive devices and equipment, States should consider the special requirements of girls and boys with disabilities concerning the design, durability and age-appropriateness of assistive devices and equipment.

6. States should support the development and provision of personal assistance programmes and interpretation services, especially for persons with severe and/or multiple disabilities. Such programmes would increase the level of participation of persons with disabilities in everyday life at home, at work, in school and during leisure-time activities.

7. Personal assistance programmes should be designed in such a way that the persons with disabilities using the programmes have a decisive influence on the way in which the programmes are delivered.

V. Reference Page: 28—Subject: Employment/Social Security/Income Maintenance

Rules 7 and 8 of the UN Standard Rules outline some of the issues relating to employment and income maintenance for people with disabilities.

Rule 7. Employment

States should recognize the principle that persons with disabilities must be empowered to exercise their human rights, particularly in the field of employment. In both rural and urban areas they must have equal opportunities for productive and gainful employment in the labour market.

ANNEX *continued*

1. Laws and regulations in the employment field must not discriminate against persons with disabilities and must not raise obstacles to their employment.

2. States should actively support the integration of persons with disabilities into open employment. This active support could occur through a variety of measures, such as vocational training, incentive-oriented quota schemes, reserved or designated employment, loans or grants for small business, exclusive contracts or priority production rights, tax concessions, contract compliance or other technical or financial assistance to enterprises employing workers with disabilities. States should also encourage employers to make reasonable adjustments to accommodate persons with disabilities.

3. States' action programmes should include:

   a. Measures to design and adapt workplaces and work premises in such a way that they become accessible to persons with different disabilities;

   b. Support for the use of new technologies and the development and production of assistive devices, tools and equipment and measures to facilitate access to such devices and equipment for persons with disabilities to enable them to gain and maintain employment;

   c. Provision of appropriate training and placement and ongoing support such as personal assistance and interpreter services.

4. States should initiate and support public awareness-raising campaigns designed to overcome negative attitudes and prejudices concerning workers with disabilities.

5. In their capacity as employers, States should create favourable conditions for the employment of persons with disabilities in the public sector.

6. States, workers' organizations and employers should cooperate to ensure equitable recruitment and promotion policies, employment conditions, rates of pay, measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment-related injuries.

7. The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative. It is important that the quality of such programmes be assessed in terms of their relevance and sufficiency in providing opportunities for persons with disabilities to gain employment in the labour market.

8. Measures should be taken to include persons with disabilities in training and employment programmes in the private and informal sectors.1.

ANNEX *continued*

9. States, workers' organizations and employers should cooperate with organizations of persons with disabilities concerning all measures to create training and employment opportunities, including flexible hours, part-time work, job-sharing, self-employment and attendant care for persons with disabilities.

Rule 8. Income maintenance and social security

States are responsible for the provision of social security and income maintenance for persons with disabilities.

1. States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities. States should ensure that the provision of support takes into account the costs frequently incurred by persons with disabilities and their families as a result of the disability.

2. In countries where social security, social insurance or other social welfare schemes exist or are being developed for the general population, States should ensure that such systems do not exclude or discriminate against persons with disabilities.

3. States should also ensure the provision of income support and social security protection to individuals who undertake the care of a person with a disability.

4. Social security systems should include incentives to restore the income-earning capacity of persons with disabilities. Such systems should provide or contribute to the organization, development and financing of vocational training. They should also assist with placement services.

5. Social security programmes should also provide incentives for persons with disabilities to seek employment in order to establish or re-establish their income-earning capacity.

6. Income support should be maintained as long as the disabling conditions remain in a manner that does not discourage persons with disabilities from seeking employment. It should only be reduced or terminated when persons with disabilities achieve adequate and secure income.

7. States, in countries where social security is to a large extent provided by the private sector, should encourage local communities, welfare organizations and families to develop self-help measures and incentives for employment or employment-related activities for persons with disabilities.

ANNEX *continued*

VI.Reference Page: 31—Subject: Education

Rule 6 of the UN Standard Rules emphasizes the need for people with disabilities of all ages to exercise equal opportunities in accessing primary, secondary and tertiary education.

Rule 6. Education

States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the educational system.

1. General educational authorities are responsible for the education of persons with disabilities in integrated settings. Education for persons with disabilities should form an integral part of national educational planning, curriculum development and school organization.

2. Education in mainstream schools presupposes the provision of interpreter and other appropriate support services. Adequate accessibility and support services, designed to meet the needs of persons with different disabilities, should be provided.

3. Parent groups and organizations of persons with disabilities should be involved in the education process at all levels.

4. In States where education is compulsory it should be provided to girls and boys with all kinds and all levels of disabilities, including the most severe.

5. Special attention should be given in the following areas:

   a. Very young children with disabilities;

   b. Pre-school children with disabilities;

   c. Adults with disabilities, particularly women.

6. To accommodate educational provisions for persons with disabilities in the mainstream, States should:

   a. Have a clearly stated policy, understood and accepted at the school level and by the wider community;

   b. Allow for curriculum flexibility, addition and adaptation;

   c. Provide for quality materials, ongoing teacher training and support teachers.

7. Integrated education and community-based programmes should be seen as complementary approaches in providing cost-effective education and training for persons with disabilities. National community-based programmes should encourage communities to use and develop their resources to provide local education to persons with disabilities.

ANNEX *continued*

8. In situations where the general school system does not yet adequately meet the needs of all persons with disabilities, special education may be considered. It should be aimed at preparing students for education in the general school system. The quality of such education should reflect the same standards and ambitions as general education and should be closely linked to it. At a minimum, students with disabilities should be afforded the same portion of educational resources as students without disabilities. States should aim for the gradual integration of special education services into mainstream education. It is acknowledged that in some instances special education may currently be considered to be the most appropriate form of education for some students with disabilities.
9. Owing to the particular communication needs of deaf and deaf/blind persons, their education may be more suitably provided in schools for such persons or special classes and units in mainstream schools. At the initial stage, in particular, special attention needs to be focused on culturally sensitive instruction that will result in effective communication skills and maximum independence for people who are deaf or deaf/blind.

VII. Reference Page: 33—Subject: Family

Rule 9 of the UN Standard Rules addresses a range of issues relating to the right of people with disabilities to have a family and the issue of personal integrity. It is essential that human rights law be strengthened in how it addresses these matters.

Rule 9. Family life and personal integrity

States should promote the full participation of persons with disabilities in family life. They should promote their right to personal integrity and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

1. Persons with disabilities should be enabled to live with their families. States should encourage the inclusion in family counselling of appropriate modules regarding disability and its effects on family life. Respite-care and attendant-care services should be made available to families which include a person with disabilities. States should remove all unnecessary obstacles to persons who want to foster or adopt a child or adult with disabilities.

ANNEX *continued*

2. Persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood. Taking into account that persons with disabilities may experience difficulties in getting married and setting up a family, States should encourage the availability of appropriate counselling. Persons with disabilities must have the same access as others to family-planning methods, as well as to information in accessible form on the sexual functioning of their bodies.

3. States should promote measures to change negative attitudes towards marriage, sexuality and parenthood of persons with disabilities, especially of girls and women with disabilities, which still prevail in society. The media should be encouraged to play an important role in removing such negative attitudes.

4. Persons with disabilities and their families need to be fully informed about taking precautions against sexual and other forms of abuse. Persons with disabilities are particularly vulnerable to abuse in the family, community or institutions and need to be educated on how to avoid the occurrence of abuse, recognize when abuse has occurred and report on such acts.

VIII. Reference Page: 35—Subject: Culture and Religion

Rule 10 of the UN Standard Rules outlines State obligations to ensure the participation of people with disabilities in cultural activities. Rule 11 addresses the equal participation of people with disabilities in religious life.

Rule 10. Culture

States will ensure that persons with disabilities are integrated into and can participate in cultural activities on an equal basis.

1. States should ensure that persons with disabilities have the opportunity to utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of their community, be they in urban or rural areas. Examples of such activities are dance, music, literature, theatre, plastic arts, painting and sculpture. Particularly in developing countries, emphasis should be placed on traditional and contemporary art forms, such as puppetry, recitation and story-telling.

2. States should promote the accessibility to and availability of places for cultural performances and services, such as theatres, museums, cinemas and libraries, to persons with disabilities.

3. States should initiate the development and use of special technical arrangements to make literature, films and theatre accessible to persons with disabilities.

ANNEX *continued*

Rule 11. Recreation and sports

States will take measures to ensure that persons with disabilities have equal opportunities for recreation and sports.

1. States should initiate measures to make places for recreation and sports, hotels, beaches, sports arenas, gym halls, etc., accessible to persons with disabilities. Such measures should encompass support for staff in recreation and sports programmes, including projects to develop methods of accessibility, and participation, information and training programmes.
2. Tourist authorities, travel agencies, hotels, voluntary organizations and others involved in organizing recreational activities or travel opportunities should offer their services to all, taking into account the special needs of persons with disabilities. Suitable training should be provided to assist that process.
3. Sports organizations should be encouraged to develop opportunities for participation by persons with disabilities in sports activities. In some cases, accessibility measures could be enough to open up opportunities for participation. In other cases, special arrangements or special games would be needed. States should support the participation of persons with disabilities in national and international events.
4. Persons with disabilities participating in sports activities should have access to instruction and training of the same quality as other participants.
5. Organizers of sports and recreation should consult with organizations of persons with disabilities when developing their services for persons with disabilities.

IX. Reference Page: 54—Subject: Public Education and Training

In the context of disability, public education and awareness features as a central component and precondition to equalizing the opportunities of disabled people and is recognized as such in Rule 1 of the UN Standard Rules.

Rule 1. Awareness-raising

States should take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential and their contribution.

1. States should ensure that responsible authorities distribute up-to-date information on available programmes and services to persons with disabilities, their families, professionals in the field and the general public. Information to persons with disabilities should be presented in accessible form.

ANNEX *continued*

2. States should initiate and support information campaigns concerning persons with disabilities and disability policies, conveying the message that persons with disabilities are citizens with the same rights and obligations as others, thus justifying measures to remove all obstacles to full participation.

3. States should encourage the portrayal of persons with disabilities by the mass media in a positive way; organizations of persons with disabilities should be consulted on this matter.

4. States should ensure that public education programmes reflect in all their aspects the principle of full participation and equality.

5. States should invite persons with disabilities and their families and organizations to participate in public education programmes concerning disability matters.

6. States should encourage enterprises in the private sector to include disability issues in all aspects of their activity.

7. States should initiate and promote programmes aimed at raising the level of awareness of persons with disabilities concerning their rights and potential. Increased self-reliance and empowerment will assist persons with disabilities to take advantage of the opportunities available to them.

8. Awareness-raising should be an important part of the education of children with disabilities and in rehabilitation programmes. Persons with disabilities could also assist one another in awareness-raising through the activities of their own organizations.

9. Awareness-raising should be part of the education of all children and should be a component of teacher-training courses and training of all professionals.

APPENDIX

Mission of the National Council on Disability

Overview and Purpose

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the US Senate. The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or significance of the disability, and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act, as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts, and the impact of such efforts on individuals with disabilities, access to health care, and policies that act as disincentives for individuals to seek and retain employment.
- Making recommendations to the President, Congress, the Secretary of Education, the director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies about ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- Providing Congress, on a continuing basis, with advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

APPENDIX *continued*

- Advising the President, Congress, the commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services within the Department of Education, and the director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.
- Providing advice to the commissioner of the Rehabilitation Services Administration with respect to the policies and conduct of the administration.
- Making recommendations to the director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this council for legislative and administrative changes to ensure that such recommendations are consistent with NCD's purpose of promoting the full integration, independence, and productivity of individuals with disabilities.
- Preparing and submitting to the President and Congress an annual report titled National Disability Policy: A Progress Report.

International

In 1995, NCD was designated by the Department of State to be the US government's official contact point for disability issues. Specifically, NCD interacts with the Special Rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers Served and Current Activities

Although many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, veteran status, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

APPENDIX *continued*

NCD plays a major role in developing disability policy in America. In fact, NCD originally proposed what eventually became the Americans with Disabilities Act. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of the ADA,improving assistive technology, and ensuring that those persons with disabilities who are members of diverse cultures fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (P.L. 95-602). The Rehabilitation Act Amendments of 1984 (P.L. 98-221) transformed NCD into an independent agency.

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